

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-630-C - ORDER NO. 94-265 ✓
APRIL 1, 1994

IN RE: Application of U.S. Digital Network Limited) ORDER
Partnership for a Certificate of Public) APPROVING
Convenience and Necessity to Operate as a) CERTIFICATE
Reseller of Telecommunications Services)
within the State of South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of U.S. Digital Network Limited Partnership (U.S. Digital or the Company) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of telecommunications services in the State of South Carolina. U.S. Digital's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Law. Co-op. 1976), as amended, and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed U.S. Digital to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of U.S. Digital's Application and of the manner and time in which to file the appropriate pleadings for participation in these proceedings. U.S. Digital complied with this instruction and provided the

Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by Southern Bell Telephone and Telegraph Company (Southern Bell). Southern Bell has subsequently filed a Motion to Withdraw from this proceeding. In that Southern Bell no longer wishes to participate in this proceeding, the Commission grants Southern Bell's Motion to Withdraw.

Joseph Pollock, President of the Company, submitted verified testimony on behalf of U.S. Digital. Mr. Pollock explained U.S. Digital's request for authority to provide intrastate telecommunications services in South Carolina. According to Mr. Pollock, as a switchless reseller, U.S. Digital plans to provide a variety of telecommunications services, including 1+ direct dialing and in-bound 800 calling, using an underlying carrier, such as WilTel. Mr. Pollock testified that the Company is currently certified to provide resold long distance service in seven other states. Pursuant to his affidavit dated March 25, 1994, Mr. Pollock affirmed that U.S. Digital has not and has no plans to offer "900" services in South Carolina.

Mr. Pollock testified that the certification of U.S. Digital will enhance telecommunications competition in South Carolina and, consequently, encourage technological innovation and efficient use of resources. Moreover, Mr. Pollock stated that competition will increase the variety of services and range of prices from which consumers may select programs which fit their telecommunications needs.

After full consideration of the applicable law, the

Application, and the testimony and affidavit submitted by U.S. Digital, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. U.S. Digital is a limited partnership established in the State of Virginia and is licensed to do business in the State of South Carolina by the Secretary of State.

2. U.S. Digital operates as a non-facilities based reseller of interexchange services and wishes to do so in South Carolina.

3. U.S. Digital has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to U.S. Digital to provide intrastate service through the resale of Wide Area Telecommunications Services (WATS), Message Telecommunications Services (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for U.S. Digital for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re:

Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984). The Commission adopts U.S. Digital's proposed maximum rate tariff.¹

3. U.S. Digital shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. U.S. Digital shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of U.S. Digital's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Law Co-op. 1976), as amended.

4. U.S. Digital shall file its tariff and an accompanying price list within thirty (30) days of the date of this Order. Further, the tariff shall be filed in a loose-leaf binder.

5. U.S. Digital is subject to access charges pursuant to

1. The Commission recognizes and adopts those tariff changes which were submitted with U.S. Digital's letter of March 28, 1994.

Commission Order 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to U.S. Digital's resale of service, an end user should be able to access another interexchange carrier or operator service provider, if they so desire.

7. U.S. Digital shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If U.S. Digital changes underlying carriers, it shall notify the Commission in writing.

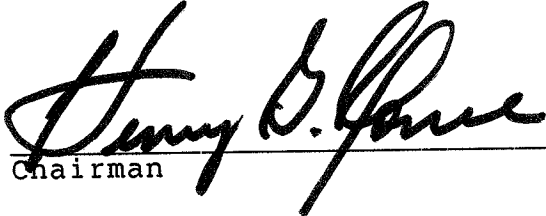
8. U.S. Digital shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

9. U.S. Digital shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

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10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS

FOR RESELLERS OF TELECOMMUNICATION SERVICE

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12 MONTHS
ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING
_____.

*THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL
AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).